

## ZONING CHANGE REVIEW SHEET

CASE: C14-2020-0112 - 416 W. 12<sup>th</sup>  
HDP-2020-0440 Delta Kappa Gamma

DISTRICT: 9

ZONING FROM: GO

TO: DMU-H -CO

ADDRESS: 416 West 12<sup>th</sup> Street

SITE AREA: 0.6733 acres (29,330 sq. ft.)

PROPERTY OWNER:

The Delta Kappa Gamma Society International  
(Nita Scott)

AGENT:

Armbrust & Brown, PLLC  
(Michael J. Whellan, Michael J. Gaudini)

CASE MANAGER: Mark Graham (512-974-3574, [mark.graham@austintexas.gov](mailto:mark.graham@austintexas.gov))

STAFF RECOMMENDATION:

**The Staff recommendation is to grant downtown mixed use – historic landmark - conditional overlay – (DMU – H - CO) combining district zoning. The conditional overlay limits building height to 60 feet. For a summary of the basis of staff's recommendation, see case manager comments on page 2.**

HISTORIC LANDMARK COMMISSION:

December 14, 2020: *APPROVED H DISTRICT ZONING, AS STAFF RECOMMENDED*  
*[B. TOLLETT, K. KOCH – 2<sup>ND</sup>] (8-0) A. PAPAVALOPOULOS – ABSENT; M. JACOB & W. FEATHERSTON – ABSTAIN.*

PLANNING COMMISSION ACTION / RECOMMENDATION:

January 26, 2021: *APPROVED DMU DISTRICT ZONING*  
*[G. ANDERSON, C. HEMPEL – 2<sup>ND</sup>] (11-0) J. SHIEH – ABSTAIN; ONE VACANCY ON THE COMMISSION.*

December 8, 2020: *APPROVED A POSTPONEMENT REQUEST BY STAFF TO JANUARY 26, 2021.*  
*[P. HOWARD, C. HEMPEL 2<sup>ND</sup>] (10-0) Y. FLORES; P. SEEGER – ABSENT; ONE VACANCY ON THE COMMISSION.*

CITY COUNCIL ACTION:

**MAY 6, 2021:**

**March 25, 2021: APPROVED A POSTPONEMENT REQUEST BY THE APPLICANT TO MAY 6, 2021. VOTE 10-0. COUNCIL MEMBER TOVO - RECUSED**

March 4, 2021: *APPROVED A POSTPONEMENT TO MARCH 25, 2021 AT THE REQUEST OF A NEARBY PROPERTY OWNER. VOTE 6-2-1-1-1. COUNCIL MEMBERS CASAR AND ELLIS – NAY; COUNCIL MEMBER RENTERIA - ABSTAINED; MAYOR PRO-TEM HARPER-MADISON - OFF THE DAIS; COUNCIL MEMBER TOVO – RECUSED.*

ORDINANCE NUMBER:

ISSUES

Petitions submitted by April 12, 2021 total 26.79% of the property owners within the 200 foot buffer area of the rezoning tract. The petition is valid. The petition supports the request for DMU with the CO for a 60 foot height limit consistent with the Staff recommendation and the Downtown Austin Plan.

Petitions submitted by March 25, 2021 City Council meeting time, from the neighborhood, included over 22% of the land within 200 feet of the rezoning tract. The petition is valid. The petition supports the request for DMU with the CO for a 60 foot height limit consistent with the Staff recommendation and Downtown Austin Plan.

Applicant requested DMU district zoning that allows for a maximum of 120-foot building height. Applicant also indicated that they would seek a Downtown Density Bonus to achieve additional building height. The building designs presented to the Historic Landmark Commission in October 2020 were almost 360 feet tall.

The staff recommendation of DMU-H-CO with the Conditional Overlay limiting building height to 60 feet would not permit the proposed building. If the Staff recommendation is approved by Council, a subsequent rezoning application to DMU without a Conditional Overlay would be required to obtain and use the Downtown Density Bonus Program for bonus height and Floor to Area Ratio (FAR) to achieve the entitlement to build over 60 feet.

At their November 16, 2020 meeting, the Historic Landmark Commission (HLC) requested that City staff prepare a Historic zoning application for the Delta Kappa Gamma Building. On December 14, 2020, HLC recommended historic (H) district zoning be added to the zoning string of the property. A historic zoning case was filed on January 13, 2021 (C14H-2021-0006). The case did not achieve the needed super majority vote in order to be eligible to proceed to Council.

Previous Historic Designations

The Delta Kappa Gamma (DKG) International Headquarters Building, built in 1956, is a City of Austin Landmark, designated a Recorded Texas Historic Landmark and listed in the National Register of Historic Places in 2012 at the local level of significance in the areas of education and architecture. The zoning application indicates that demolition is proposed.

### Downtown Density Bonus Program

Applicant requested DMU zoning with a 120-foot building height limit and informed staff that additional height is needed to build the proposed residential tower. The land is in Downtown Density Bonus eligible area. Applicant did not request a specific height or number of stories in their application.

The Applicant wishes to discuss the Staff recommendation.

### CASE MANAGER COMMENTS:

#### Location

The Delta Kappa Gamma International Headquarters Building is located in the **Uptown/Capitol District** of the Downtown Austin Plan (DAP) (*exhibit C*). The subject site is two and a half blocks west of the Texas Capitol building in downtown Austin, on the northeast corner of West 12<sup>th</sup> Street and San Antonio Street. The existing one-story office building, built in 1956, functions as the headquarters for DKG international operations while their national headquarters is in Denton, Texas. The applicant requests Downtown Mixed Use (DMU) zoning that together with a Downtown Density Bonus would allow redevelopment of their land with a 31-story residential tower over street level commercial uses at 416 West 12<sup>th</sup> Street.

Building and site plan information is not required with a rezoning application. There was, however, a submittal to the Historic Landmark Commission (HLC) in October 2020 that contained conceptual information about a 31 story, 357-foot-tall building. The architects presented building designs that included elements of the existing building such as a brick wall that looks like the existing wall, Other elements such as the horizontal entry roof line were incorporated into designs for the 31-story tower. None of the design concepts included keeping the existing building.

#### Zoning

Currently the ownership includes land in two zone districts: An L-shaped general office (GO) zoned area 0.3382 acres) and a rectangular shaped tract zoned downtown mixed use (DMU) (*exhibit G*). The applicant requests rezoning the GO zoned tract to DMU to enable a mixed-use development on the entire parcel within the regulations of a single DMU zone district. The application proposes zoning for a commercial/residential mix of uses with 6,000 square foot ground-floor restaurant and 280 residences above. There are no existing residents that would be displaced.

#### Height/Floor Area Ratio

The requested DMU zone district typically permits 120-foot maximum building height. Applicant communicated in the application materials that they plan to seek additional height through the Downtown Density Bonus Program (DDBP). Though applicants are not required to provide site plans or building elevations with a rezoning application, those will be required at the time of site plan.

San Antonio Street, on the west of the DKG building, is the boundary between the Uptown / Capitol and Northwest Districts of the DAP. There are many historic buildings within the Northwest District and properties within that district are not eligible for the DDBP. The Uptown / Capitol District permits taller buildings than the Northwest District. The DAP supports DMU-60 zoning on the subject property in the Uptown / Capitol District (see Exhibit D attached).

Based on the Downtown Austin Plan, Proposed Downtown Zoning Changes (exhibit D), the 60 foot limit is for the L-shaped GO zoned area and the existing DMU zoning tract permits building to 120 feet. The DMU zoned portion of the site is not included in the application. Note that in the legend of the exhibit D map, the number after the DMU indicates the recommended height for the Planning Commission and Council to adopt. Instead of creating separate zone districts, the conditional overlay (CO) tool is used to regulate building height limit if different from standard DMU height limit of 120 feet.

#### Downtown Austin Plan/Downtown Density Bonus Program

The Downtown Density Bonus Program (DDBP) is a tool that the Land Use Commission and City Council use to authorize additional Floor Area Ratio (FAR) and height for development that implements the goals of the DAP. In the Uptown/Capitol District the maximum FAR is 15:1 and maximum building height is 400 feet. (*see exhibits E & F*)

In order to qualify for the DDBP, all development proposals are required to meet the Gatekeeper Requirements:

- Comply with Urban Design Guidelines on site and building
- Enter Restrictive Covenant to provide Great Streets streetscape improvements
- Commit to Austin Energy Green Building

And commit to providing Community Benefits per 25-2-586 (E) (1-12).

Staff requested that the agent provide more information about the Community Benefit that the applicant would use to qualify for the proposed Downtown Density Bonus for the additional height needed to build a 357-foot-tall building. Applicant did not respond to the request for additional information. More site and building information will be required when the applicant goes through the DDBP review process.

#### Capitol View Corridor

Building heights for the subject rezoning tract may be constrained by a Capitol View Corridor (CVC). Applicant will need to locate capitol view corridors in relation to subject site and show on site plan and building elevations.

#### **BASIS OF RECOMMENDATION:**

Staff's recommendation is to grant downtown mixed use – conditional overlay (DMU-H-CO) combining district zoning with a 60-foot building height limit in the conditional overlay.

1. *The proposed zoning should be consistent with the purpose statement of the district sought.*

**DMU – Downtown Mixed Use district** is intended for areas on the periphery of CBD classifications in the central core area, permitting a variety of uses compatible with downtown Austin and allowing intermediate densities as a transition from the commercial core to surrounding districts. Site development regulations are intended to permit combinations of office, retail, commercial, and residential uses within a single development. **H – Historic landmark combining district** is intended to protect, enhance, and preserve structures, sites, or areas that are architectural, historical, archaeological, or cultural significance. **CO – Conditional Overlay combining district** may be applied in combination with any base district. The district is intended to provide flexible and adaptable use or site development regulations by requiring standards tailored to individual properties.

The applicant requested DMU zoning as recommended in the Downtown Austin Plan (DAP). Staff recommends a conditional overlay (CO) which provides the means to limit the building height consistent with the DAP recommendation for 60 feet.

2. *Zoning should not constitute a grant of special privilege to an individual owner; Granting of the request should result in an equal treatment of similarly situated properties.*

The requested DMU zone district is consistent with the recommendation in the Downtown Austin Plan, an element of the Austin's Comprehensive Plan. The mixed land uses proposed, commercial/residential, are consistent with the recommendation to provide uses other than office in the downtown. The residential units would be in a location that is walkable and bikeable to work in the downtown activity/employment center. Also putting residential units at the subject location encourages the use of MetroRapid transit services a half block away on Guadalupe or a block further on Lavaca. Siting the residential density near the Core Transit Corridor also supports the public investment in transportation infrastructure. The 2017 Housing Blueprint also supports locating residential density within 3/4ths of a mile of the Core Transit Corridors.

3. *The rezoning should be consistent with the policies and principles adopted by the City Council or Planning Commission.*

Imagine Austin recommends adding more variety of land uses in the Downtown other than office; replacing single use zones with mixed use; activating street life with ground floor commercial uses and enhancing the pedestrian and bicycle facilities. The current application proposes mixed use zoning with residential/commercial with a ground floor restaurant. In addition, because they plan to seek a density bonus for height in the DDBP, they will need to commit to building the Great Streets level of streetscape with wide sidewalks, street furniture, street trees and pedestrian lighting. The land uses, the urban design and physical features of the proposed development meet multiple Comprehensive Plan goals.

#### HISTORIC DESIGNATION CRITERIA:

4. *Character, interest or value as part of the development, heritage or cultural characteristics of the City of Austin, State of Texas, or the United States.*
5. *Embodiment of distinguishing characteristics of an architectural type or specimen.*

The building was listed on the National Register of Historic Places in 2012 under Criteria A and C for its significance in the areas of education and architecture; which also fulfills qualifications for city historic landmark designation criteria for architectural significance and historical associations. As a property individual listed on the National Register of Historic Places, under City Code, it does not need to meet additional criteria for designation as a historic landmark.

The applicant opposes city landmark designation, so this case will require a super-majority vote for historic zoning at either the Historic Landmark Commission or the Planning Commission to advance to the City Council.

EXISTING ZONING AND LAND USES:

	Zoning	Land Uses
Site	GO	Office
North	DMU	Across alley, office in historic house, Travis County offices
South	GO, DMU	Parking and church
East	DMU, DMU	Office, parking, office
West	DMU-CO, GO	Offices

NEIGHBORHOOD PLANNING AREA: Downtown Austin Plan – Uptown / Capitol District

TIA: The Traffic Impact Analysis has been deferred until site plan application, when land use and intensities will be finalized.

WATERSHED: Shoal Creek – Urban; impervious cover 100%

OVERLAYS: Criminal Justice Center Overlay - Downtown Austin Plan Districts: Uptown / Capital - Downtown Density Bonus: FAR – 15:1 & Max Height – 400 feet. Green Building – Mandatory - Central Business District/Downtown Mixed Use Residential Design Standards: LDC 25-2-Subchapter F - Selected Sign Ordinances

SCHOOLS: AISD

Mathews Elementary

O. Henry Middle

Austin High

COMMUNITY REGISTRY LIST:

Austin Independent School District  
Austin Lost and Found Pets  
Austin Neighborhoods Council  
Bike Austin  
Central Austin Community Development Corporation  
City of Austin Downtown Commission  
Downtown Austin Alliance

Downtown Austin Neighborhood Assn. (DANA)  
Friends of Austin Neighborhoods  
Historic Austin Neighborhood Association  
Homeless Neighborhood Association  
Neighborhood Empowerment Foundation  
Old Austin Neighborhood Association  
Preservation Austin  
SELTexas

Shoal Creek Conservancy  
Sierra Club

Austin Regional Group  
West Downtown Alliance

AREA CASE HISTORIES:

Number	Request	Commission	City Council
C14-2015-0133a 1204 San Antonio St	Rezone 0.254 acres from GO to DMU-CO. Condition A. Prohibited uses: cocktail lounge, liquor sales, bail bond svcs., pawn shop svcs., outdoor entertainment. B. building height may not exceed 60 feet.	To grant	Apvd. 06/16/2016 Ord.#20160616-037  Apvd. 04/14/2016 Ord.#20160414-021
C14-2018-0041 502 W 12 <sup>th</sup> St.	Rezone 0.06 acres from GO to DMU-CO. Condition: 60-foot maximum building height.	To grant	Apvd. 06/14/2018 Ord.# 20180614-098
C14-2017-0054 1202 San Antonio St.	Rezone 0.091 acres GO to DMU-CO. 3 Conditions: A vehicle trips not to exceed 2,000 per day; B. 60-foot maximum building height; prohibited uses: bail bond services, liquor sales, cocktail lounge.	To grant	Apvd.09/28/2017 Ord.#20170928-069
C14H-2017-0107 1105 Nueces St Tucker-Winfield Apts.	Rezone from GO to GO-H to grant historic status.	To grant	Apvd. 10/05/2017 Ord.#20171005-050
C14-2007-0030 1104 San Antonio St. Allan Thrasher House	Rezone from CS to DMU	Withdrawn	Not applicable
C14-2012-0103 410 & 416 W. 11 <sup>th</sup> St Texas PTA	Rezone 0.566 acres CS to DMU-CURE. 5 Conditions: A. vehicle trips not to exceed 2,000. B. 100 foot maximum building height. C. Maximum FAR 6.5:1. D. Conditional uses: bail bond svcs., liquor sales. Prohibited uses: Automotive repair svcs., automotive sales, automotive rentals, automotive washing (of any type) and pawn shop svcs.	To grant	Apvd. 11/01/2012 Ord.#20121101-049
C14-2012-0102 408 W. 11 <sup>th</sup> St. Texas PTA	Rezone 0.0918 acres from DMU to DMU-CURE. 4 Conditions: A. daily vehicle trips not to exceed 2000. B. FAR not to exceed 6.5:1. C. Conditional uses: bail bond svcs., and liquor sales. D. Prohibited use: pawn shop.	To grant	Apvd. 11/01/2012 Ord.# 20121101-050

Number	Request	Commission	City Council
C14-2009-0095 1304, 1308 Lavaca and 301-303 W14th St. Capital Terrace	Rezone 0.4059 acres from DMU to CBD-CO. Condition: daily vehicle trips not to exceed 2000 trips.	To grant	Apvd. 12/10/2009 Ord.# 20091210-053
C14-97-0163 406 W. 13 <sup>th</sup> St. and 1303 San Antonio St. Travis Phillips	Rezone from Go to DMU-CO. 1 Condition: daily vehicle trips not to exceed 2000 trips.	To grant	Apvd. 03/05/1998 Ord.# 980305-C
C14-2018-0041 502 W. 12 <sup>th</sup> St.	Rezone 0.0569 acres from GO to DMU- CO. Condition: maximum building height 60 feet.	To grant	Apvd. 06/14/2018 Ord.#20180614-098

RELATED CASES:

None

LEGAL DESCRIPTION:

**BEING A DESCRIPTION OF A TRACT OF LAND CONTAINING 0.3382 ACRE (14,732 SQUARE FEET) OF LAND, BEING ALL OF LOT 1 AND A PORTION OF THE WEST 11 FEET OF LOT 2, BLOCK 150 OF THE ORIGINAL CITY OF AUSTIN, TRAVIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT ON FILE IN THE GENERAL LAND OFFICE OF THE STATE OF TEXAS, CONVEYED TO DELTA KAPPA GAMMA SOCIETY IN VOLUME 630, PAGE 334 OF THE DEED RECORDS OF TRAVIS COUNTY, TEXAS (D.R.T.C.T.), AND BEING A PORTION OF THE EAST 45 FEET OF THE WEST 56 FEET OF LOT 2, BLOCK 150 OF SAID ORIGINAL CITY OF AUSTIN, CONVEYED TO DELTA KAPPA GAMMA SOCIETY IN VOLUME 2518, PAGE 61 (D.R.T.C.T.), SAID 0.3382 ACRE BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS: (see field notes)**

OTHER STAFF COMMENTS:Comprehensive Planning

Property is owned by the Delta Kappa Gamma Society International and functions as their office space. Existing building is a single story.

**Downtown Austin Plan**

The property is in the **Uptown/Capital District** of the Downtown Austin Plan (DAP). The applicant is proposing to change the zoning from General Office (GO), to DMU for the entire site.

Significant Uptown/Capital District specific goals:

- Promote a broader diversity of uses beyond office to contribute to a more vibrant mixed-use district. (pg. 42)
- Enhance streets to be more pedestrian and bicycle-friendly and to create stronger linkages with other parts of the downtown and UT. (pg. 42)

The following DAP goals are relevant to this case:

AU-1.1: Replace single-use zoning districts with downtown mixed-use zoning designations. (p.22)

- AU-1.2: Prioritize and Incentivize certain uses in certain districts of Downtown. (p.22)
- AU-1.3: Prioritize and Incentivize certain ground-level uses along certain streets. (p. 22)

Based on the information above, Staff believes that the proposed zoning change is supported by the Downtown Austin Plan.

#### Environmental

1. The site is not located over the Edwards Aquifer Recharge Zone. The site is located in the Shoal Creek Watershed of the Colorado River Basin, which is classified as an Urban Watershed by Chapter 25-8 of the City's Land Development Code. It is in the Desired Development Zone.
2. Zoning district impervious cover limits apply in the Urban Watershed classification.
3. According to floodplain maps there is no floodplain within or adjacent to the project location.
4. Standard landscaping and tree protection will be required in accordance with LDC 25-2 and 25-8 for all development and/or redevelopment.
5. At this time, site specific information is unavailable regarding vegetation, areas of steep slope, or other environmental features such as bluffs, springs, canyon rimrock, caves, sinkholes, and wetlands.
6. This site is required to provide on-site water quality controls (or payment in lieu of) for all development and/or redevelopment when 8,000 s.f. cumulative is exceeded, and on site control for the two-year storm.

#### Site Plan

- SP 1. Site plans will be required for any new development other than single-family or duplex residential.
- SP 2. Any new development is subject to Subchapter E. Design Standards and Mixed Use. Additional comments will be made when the site plan is submitted.

**CAPITOL VIEW CORRIDOR**

SP3. This site is close to the Red Bud Trail Capitol View Corridor. Show the limits of the view corridor(s) on the Site plan. Show a cross-section of the building with the base elevation and maximum height allowed within the corridor(s).

SP4. An application for a Capitol View Corridor Height Determination may need to be submitted to Intake and an application fee paid. When the Determination has been completed, note the allowed maximum heights on the site plan sheet, and note on the cover sheet that the site is within the Red Bud Trail Capitol View Corridor(s) and reference the CVC case number.

**DOWNTOWN DESIGN GUIDELINES (CBD/DMU)**

SP5. Compliance with Green Building standards of ONE Star is required for all buildings constructed on this site. Contact the Green Building Program at 512-482-5300 for further information.

SP6. A business that offers a drive-in service in the CBD or DMU district must provide a similar service for a pedestrian that does not require the pedestrian to stand or walk in a vehicle lane. [Sec. 25-2-592]

SP7. In the CBD and DMU districts, a surface parking facility must be at least partially and periodically obscured from the street by landscaping, a berm, a wall, decorative fencing, or another structure. [Sec. 25-2-593(C)]

SP8. For a parking structure in the CBD and DMU districts, the headlights of automobiles in a parking structure may not be directly visible from an adjacent building or a building across a street, other than an alley, from the parking structure. Automobiles in a parking structure must be screened from public view. [Sec. 25-2-293(D)]

SP9. For all land uses in a CBD or DMU district except major utilities or local utilities, a trash receptacle, air conditioning or heating equipment, loading area, or external storage must be screened from public view. Equipment located on a roof must be screened from the view of a person standing on the farthest edge of an adjacent public street, other than an alley, unless the Director determines that screening is not practical. [Sec. 25-2-293(E)].

SP10. In the CBD and DMU districts (with certain exceptions), for the first four stories of a building that are above grade, the maximum front yard setback is 10 feet, and the maximum street side yard setback is 10 feet. These setbacks do not apply to the portion of a building adjacent to a plaza or a protected tree. [Sec. 25-2-594].

SP11. In the CBD and DMU districts (with certain exceptions), a parking garage must be separated from an adjacent street by a pedestrian-oriented use described in Section 25-2-691.

- SP12. For information about Great Streets (boundaries are 11th, Lamar, Lady Bird Lake and IH35), please contact Jorge Rousselin, with Urban Design Division at 512-974-2975. If any work is proposed within the ROW in the downtown area or any of the City of Austin's designated Core Transit Corridors, please also contact Jorge Rousselin 512-974-2975 and Arthur Walston with ROW Management, at 512-974-1406. Downtown Guidelines can be found at the following link:  
<http://www.austintexas.gov/departments/urban-planning-design>
- SP13. This site is within the Downtown area (boundaries are MLK, Lamar, Lady Bird Lake and IH35). Please contact both the Downtown and Design Commissions to discuss your project.

### **CRIMINAL JUSTICE CENTER**

- SP14. This site is located in the Criminal Justice center overlay district and is subject to 25-2-560. A bail bond services use, cocktail lounge use, or liquor sales use that would otherwise be a permitted use is a conditional use; and a pawn shop services use is prohibited.

### **DEMOLITION**

- SP15. The applicant is responsible for requesting relocation and demolition permits once the site plan is approved. The City Historic Preservation Officer will review all proposed building demolitions and relocations prior to site plan approval. If a building meets city historic criteria, the Historic Landmark Commission may initiate a historic zoning case on the property.

#### Parks and Recreation Department

Parkland dedication will be required for the new residential units proposed by this development, multifamily with DMU zoning, at the time of subdivision or site plan, per City Code § 25-1-601. Whether the requirement shall be met with fees in-lieu or dedicated land will be determined using the criteria in City Code Title 25, Article 14, as amended. Should fees in-lieu be required, those fees shall be used toward park investments in the form of land acquisition and/or park amenities within the surrounding area, per the Parkland Dedication Operating Procedures § 14.3.11 and City Code § 25-1-607 (B)(1) & (2).

If the applicant wishes to discuss parkland dedication requirements in advance of site plan or subdivision applications, please contact this reviewer: [thomas.rowlinson@austintexas.gov](mailto:thomas.rowlinson@austintexas.gov). At the applicant's request, PARD can provide an early determination of whether fees in-lieu of land will be allowed.

Transportation

The Austin Strategic Mobility Plan (ASMP), adopted 04/11/2019, identifies existing sufficient existing right-of-way W. 12<sup>th</sup> Street and San Antonio Street. The traffic impact analysis should be deferred to the time of site plan application when land uses and intensities will be known. Mitigation of site traffic may be required if a TIA is not warranted.

Name	Existing ROW	ASMP Required ROW	Pavement	ASMP Classification	Sidewalks	Bicycle Route	Capital Metro (within ¼ mile)
W. 12 <sup>th</sup> Street	~120'	120'	~50'	3	Yes	Yes	Yes
San Antonio Street	~80'	80'	~39'	1	Yes	No	No

Fire Department

No comments

Austin Water Utility

AW1. The landowner intends to serve the site with City of Austin water and wastewater utilities. The landowner, at own expense, will be responsible for providing any water and wastewater utility improvements, offsite main extensions, utility relocations and or abandonments required by the land use. The water and wastewater utility plan must be reviewed and approved by Austin Water for compliance with City criteria and suitability for operation and maintenance.

The landowner must pay the City inspection fee with the utility construction. The landowner must pay the tap and impact fee once the landowner makes an application for a City of Austin water and wastewater utility tap permit.

INDEX OF EXHIBITS TO FOLLOW

Attachment 1: Response to PC Questions

Exhibit A: Zoning Map

Exhibit B: Aerial Map

Exhibit C: Downtown Austin Plan - Districts Map

Exhibit D: Proposed Downtown Zoning Changes Map (from DAP)

Exhibit E: Overall Downtown – Downtown Density Bonus Map

Exhibit F: Uptown/Capitol District – Downtown Density Bonus Map

Exhibit G: Survey Exhibit for GO zoned tract

Correspondence

Educational Impact Statement

Petition Packet

### **Response to PC Questions**

Item B-6 on the 1/26/2021 Planning Commission Agenda: C14-2020-0112 – Delta Kappa Gamma Society International

1) Question: If 416 W. 12<sup>th</sup> St. property is designated historic, will this prevent the demolition of the existing structure? **(See Steve Sadowsky response Case C14H-2021-0006.)**

2) Question. Exhibit E page 16 of 19 – The boundaries are not clearly drawn. Is the property in the zone with limits of 120' height and 5:1 FAR or 400' height and 15:1 FAR? Are these max. limits even with Density Bonuses?

**Answer 2) The subject property IS IN the 15:1 FAR and 400' height District and would be eligible to apply for the Downtown Density Bonus to request up to 15:1 FAR and up to 400' of building height if granted their requested DMU zoning. Yes, those are the maximum limits in this district even with Density Bonuses.**

3) Question: Backup notes that applicant has not provided any documentation of community benefits to city proposed to build to a height greater than 120'. Has applicant provided any additional information on community benefits to justify building to height greater than 120'?

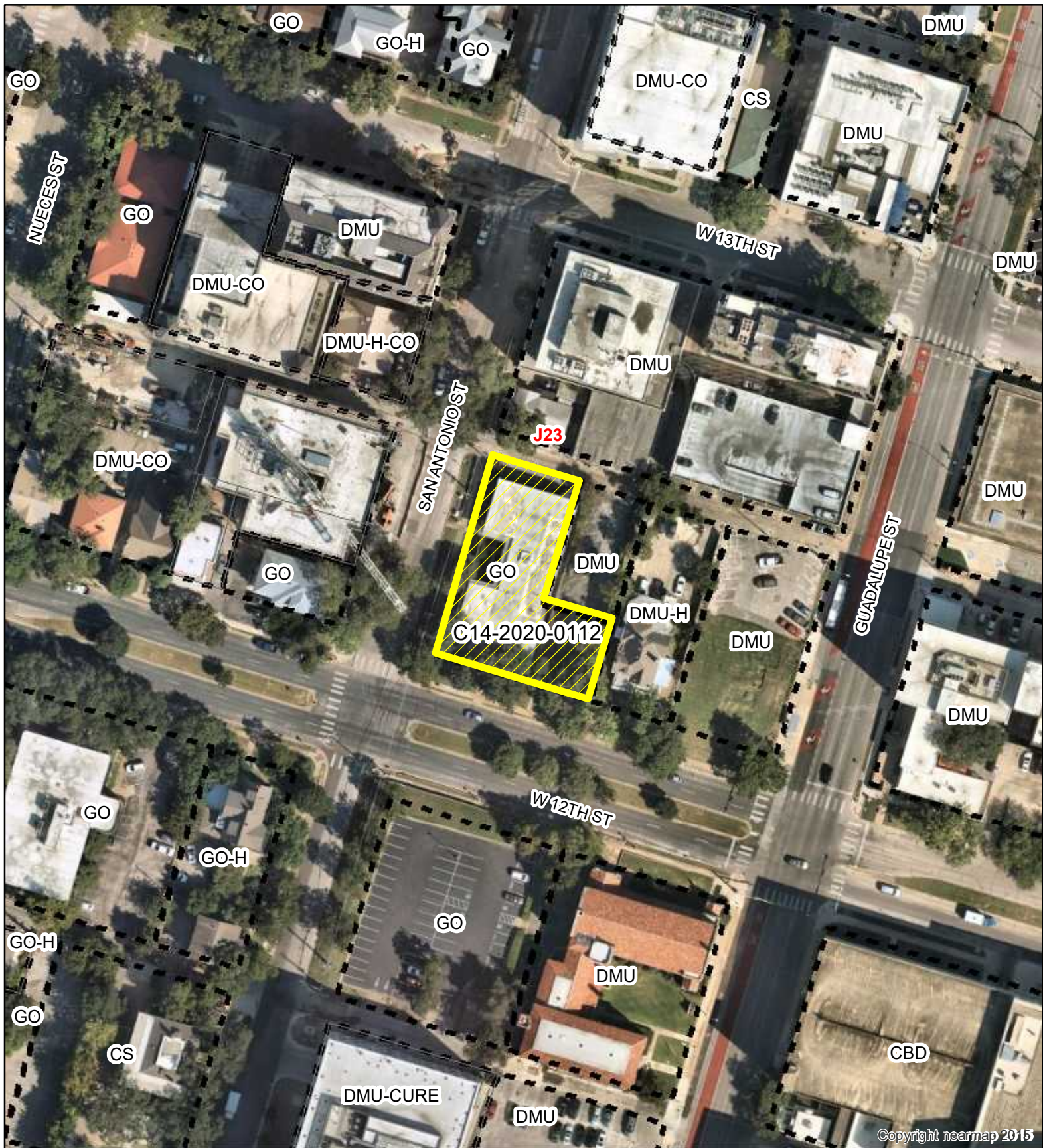
**Answer 3.) The applicant did not propose community benefits for heights greater than 120'. Typically, an applicant would maximize the site's primary entitlements through zoning before requesting the height or FAR available in the Downtown Density Bonus (DDB) Program. Community Benefits are public amenities that exceed Gatekeeper Requirements. Meeting the "Gatekeeper Requirements" is required in order to obtain bonus area. 25-2-586 (A) (2).**

**The applicant is requesting DMU zoning for the GO zoned parcel at this location. There is an adjoining parcel, owned by Delta Kappa Gamma, zoned DMU. The applicant is seeking DMU zoning for the entire ownership before proceeding with requests for Downtown Density Bonuses.**

4) Question: Backup includes the following: "Building heights for the subject rezoning tract may be constrained by a Capitol View Corridor (CVC). Applicant will need to locate capitol view corridors in relation to subject site and show on site plan and building elevations." Wouldn't it make more sense for applicant to determine whether CVC applies to this property prior to requesting zoning allowing greater height?

**Answer 4) A Capitol View Corridors (CVC) determination is a separate application and not required at the time of rezoning, however, there is a benefit to locating the CVC affecting the property before proceeding to develop a site plan application.**



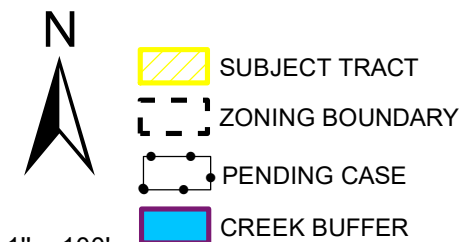


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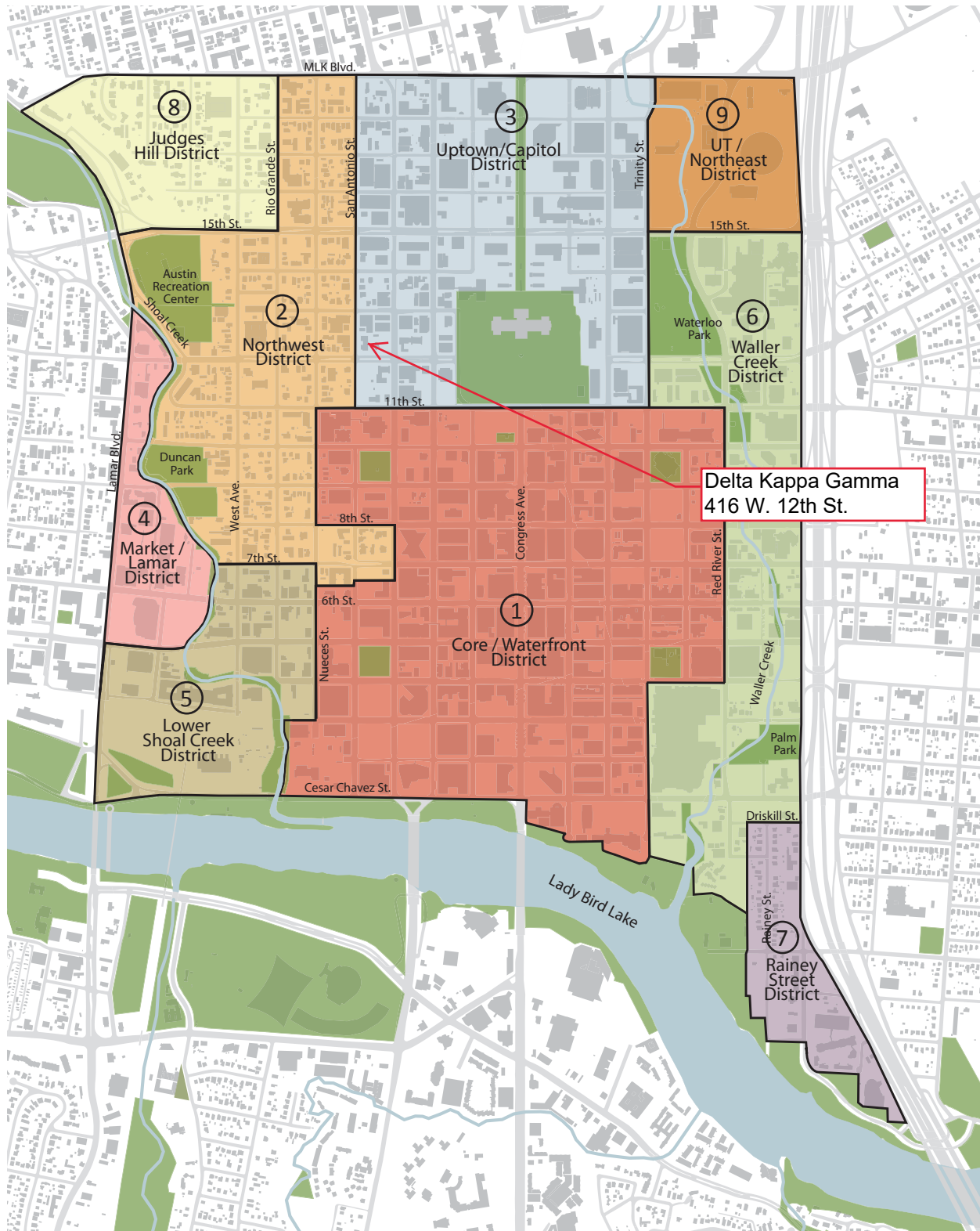
416 W. 12TH

Exhibit B

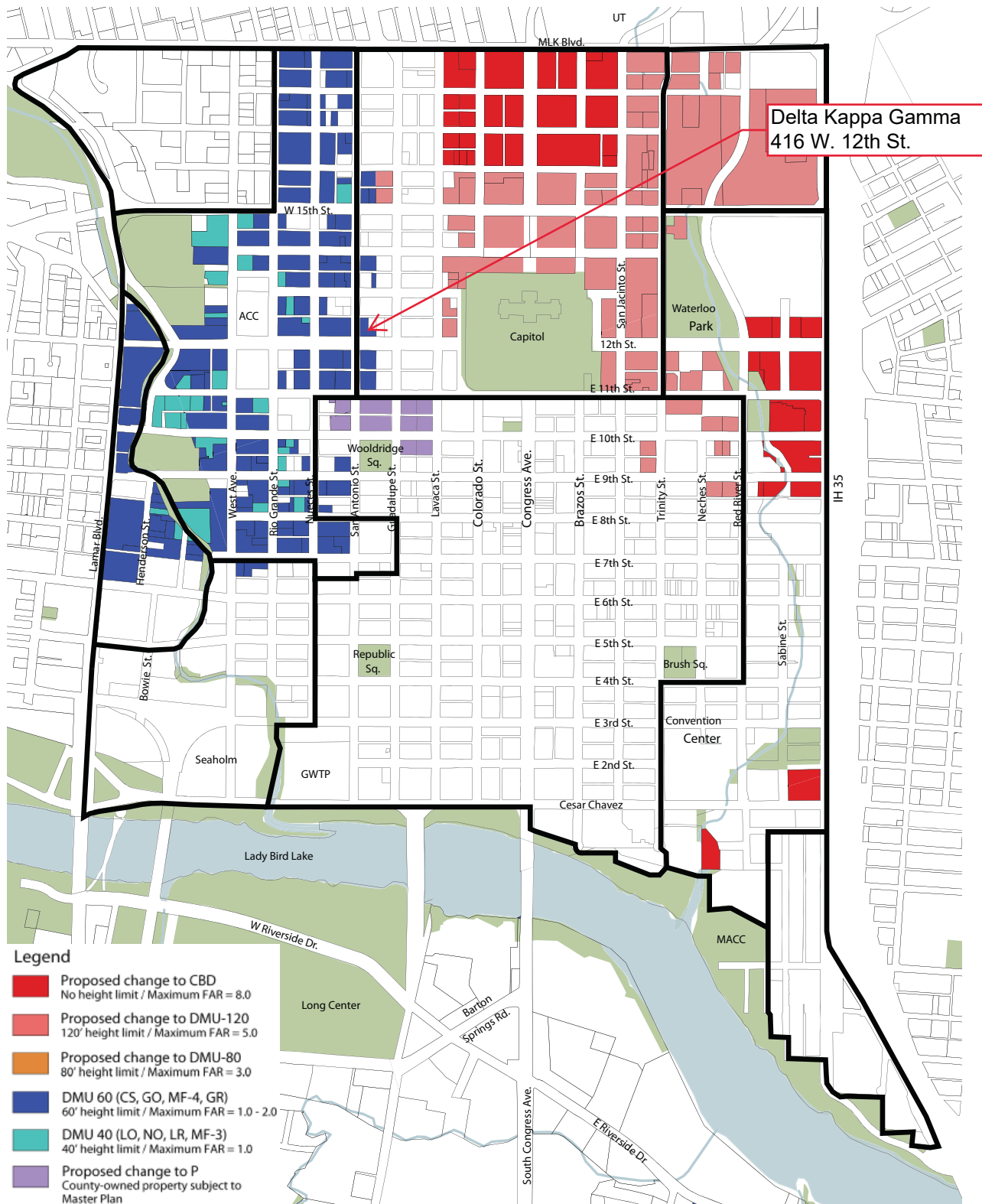
ZONING CASE#: C14-2020-0112  
 LOCATION: 416 W. 12TH ST.  
 SUBJECT AREA: 0.3382Acres  
 GRID: J23  
 MANAGER: MARK GRAHAM



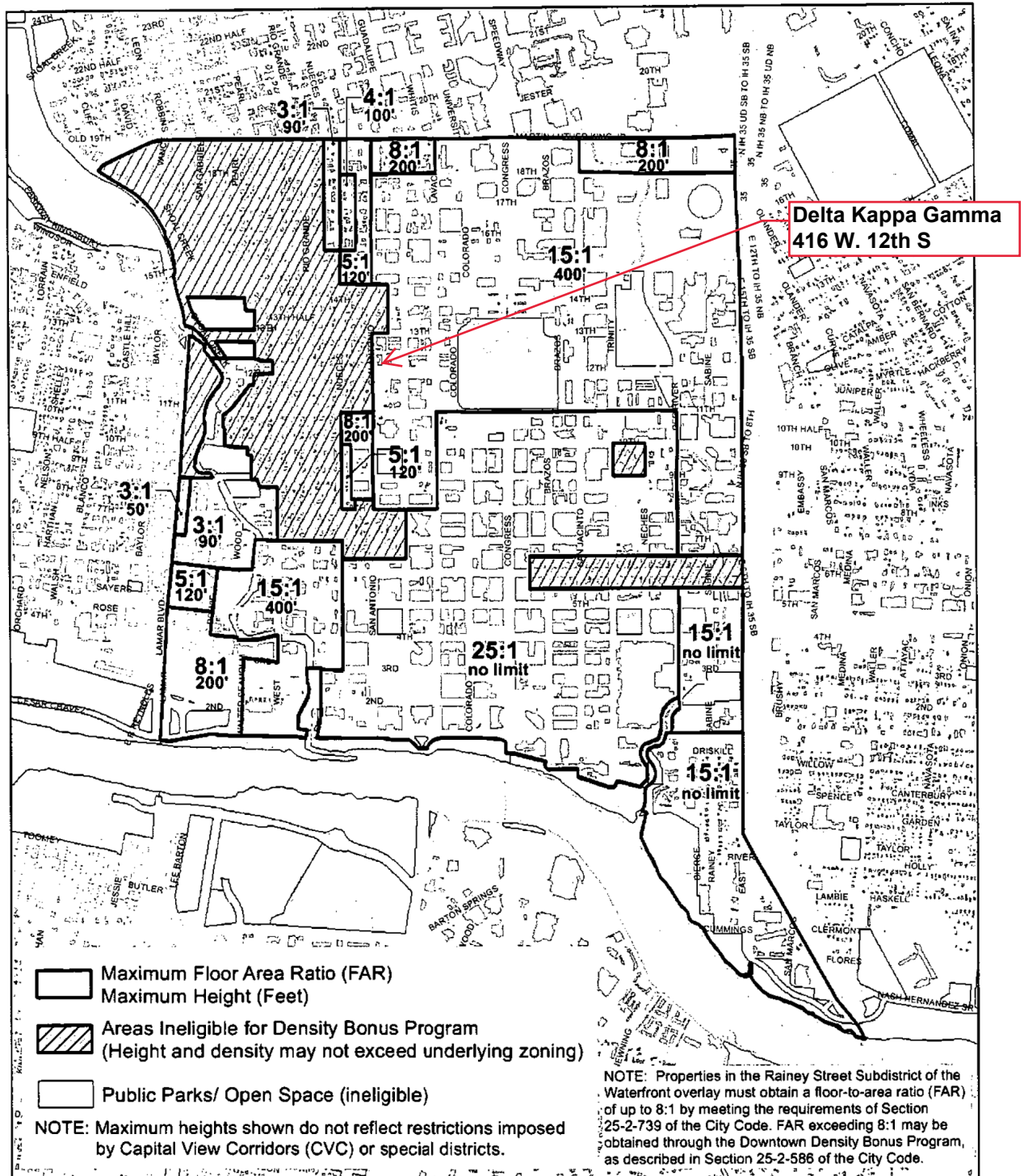
This map has been produced by the Communications Technology Management Dept. on behalf of the Planning Development Review Dept. for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.



Downtown Districts Map



## Proposed Downtown Zoning Changes



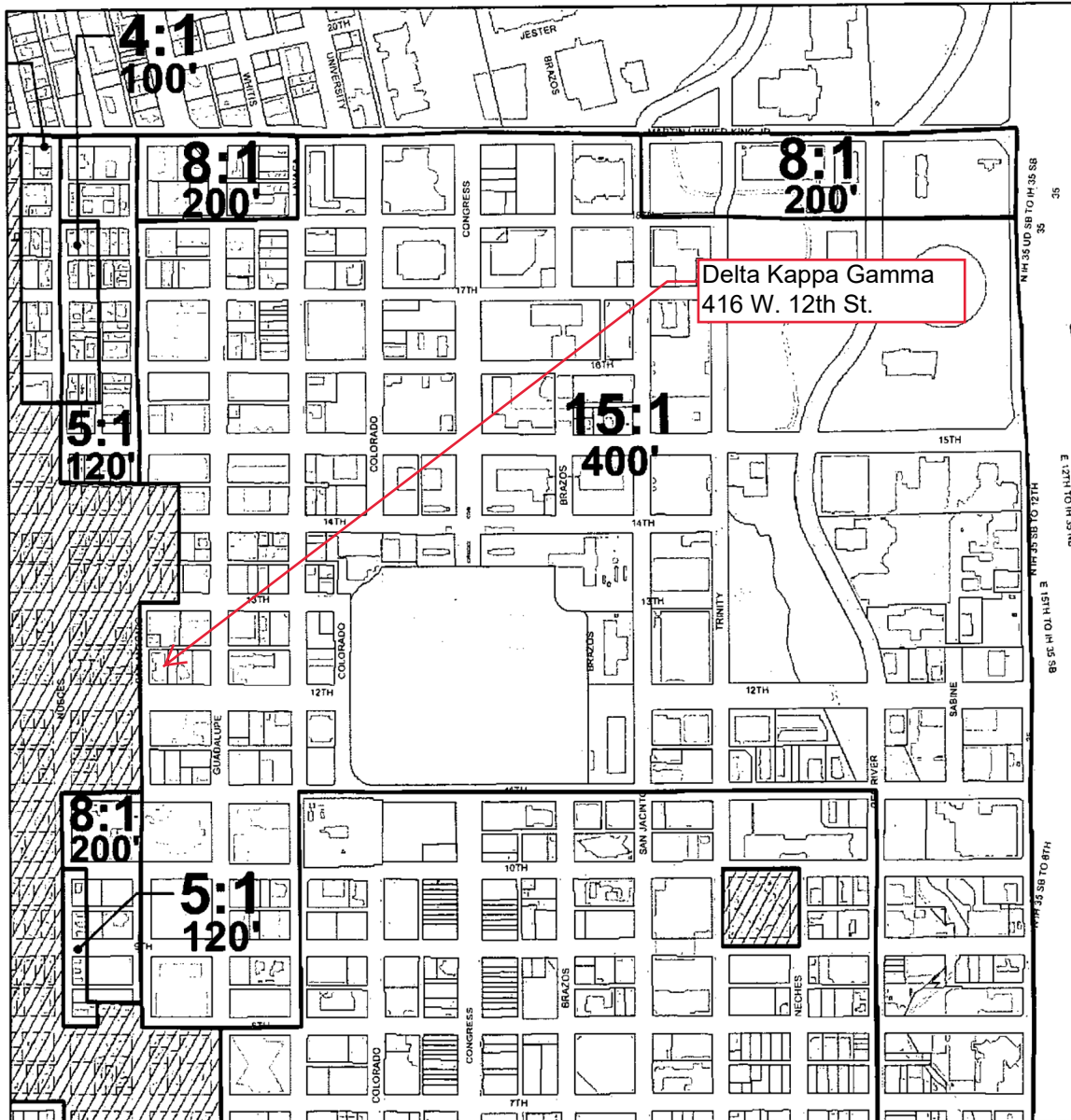
**Downtown Density Bonus Program - Eligibility, Floor Area Ratio (FAR) and Height Map**  
Figure 2: Page 1



PLANNING AND  
DEVELOPMENT REVIEW  
DEPARTMENT

This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries. It has been produced by the Planning and Development Review Department for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.



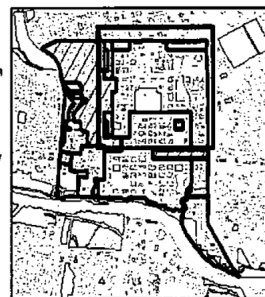
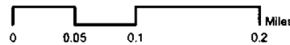


**Downtown Density Bonus Program - Eligibility, Floor Area Ratio (FAR) and Height Map**  
Figure 2: Page 3

- Maximum Floor Area Ratio (FAR)
- Maximum Height (Feet)
- Areas Ineligible for Density Bonus Program (Height and density may not exceed underlying zoning)
- Public Parks/ Open Space (ineligible)
- TCAD Parcels

NOTE: Properties in the Rainey Street Subdistrict of the Waterfront overlay must obtain a floor-to-area ratio (FAR) of up to 8:1 by meeting the requirements of Section 25-2-739 of the City Code. FAR exceeding 8:1 may be obtained through the Downtown Density Bonus Program, as described in Section 25-2-586 of the City Code.

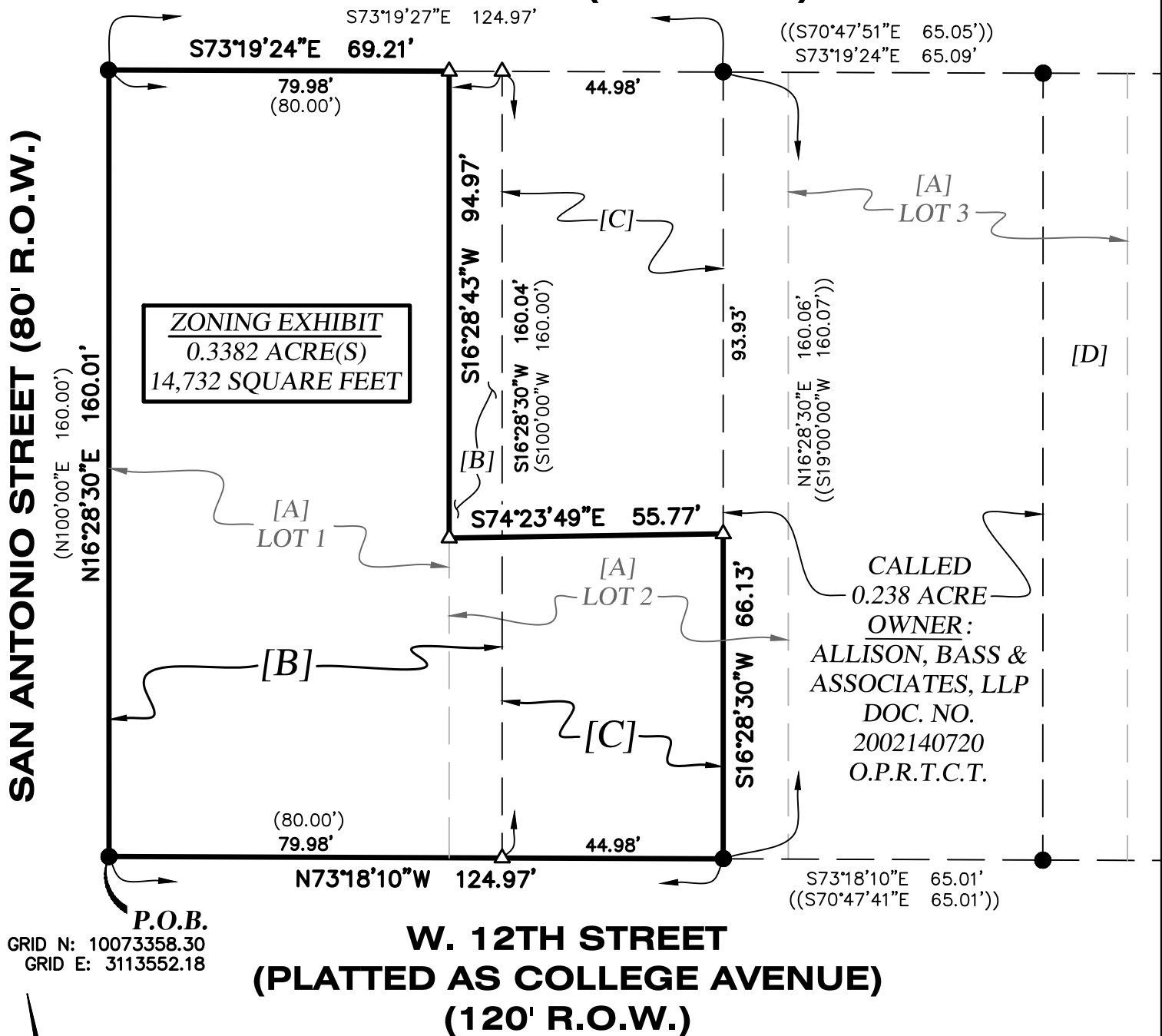
NOTE: Maximum heights shown do not reflect restrictions imposed by Capital View Corridors (CVC) or special districts.



PLANNING AND  
DEVELOPMENT REVIEW  
DEPARTMENT

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1/27/2014

**ALLEY (20' R.O.W.)****SAN ANTONIO STREET (80' R.O.W.)**

PO Box 90876, Austin Texas 78709  
WWW.4WARDLS.COM (512) 537-2384  
TBPELS FIRM #10174300

Date:	11/6/2020
Project:	01051
Scale:	1" = 30'
Reviewer:	DV
Tech:	CC
Field Crew:	JCR/KDL
Survey Date:	JUL. 2020
Sheet:	1 OF 2

**From:** [Blake Tollett](#)  
**To:** [Graham, Mark](#)  
**Subject:** C14-2020-0112; 416 W 12th Street  
**Date:** Wednesday, December 2, 2020 4:56:48 PM

---

\*\*\* External Email - Exercise Caution \*\*\*

Case Manager Mark Graham and Members of the Planning Commission:

I write to you today to encourage you to approve the requested rezoning of the property at 412 W. 12th Street from the GO zoning district to the DMU zoning district with the condition that the developmental height be limited to 60 feet as is envisioned in the Downtown Austin Plan (DAP).

Although this property falls within the Uptown/Capitol District (U/CD) of the DAP, just outside the Northwest District, the site's proposed zoning district under the DAP is DMU-60. The U/CD is envisioned in the DAP as a high density area of opportunity, but this property is specifically called out for a lower zoning district classification, a zoning district that reflects the zoning districts directly across San Antonio Street from it.

Specifically on page 44 of the DAP under development opportunity sites, the property is illustrated as a low rise building. It should also be noted that the current structure on the property is an individually listed National Register District property and the DAP refers to the current building as part of a possible Local Historic District along W. 12th Street between West Avenue and Colorado Street.

For decades I owned the property directly across San Antonio Street (1202) from this property and I currently own the properties at 601 & 603 W. 12th. West 12th is a special street, a gateway from the west to the Capitol complex. I would ask that you would keep this in mind in any discussions related to development of the property.

Thank you in advance.

Blake Tollett  
3701 Bonnie Road 78703

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**Post Office Box 1282**

**Austin, TX 78767**

[www.originalaustin.org](http://www.originalaustin.org)

**22 February 2021**

**C14H-2021-0006**

Dear Mayor and City Council:

The Old Austin Neighborhood Association (OANA) supports the request to change the zoning of 416 W. 12<sup>th</sup> Street from General Office (GO) to Downtown Mixed-Use (DMU).

Our support of this zoning change is conditioned on the following DMU uses not being permitted: cocktail lounge, liquor sales, bail bond services, pawn shop services, and outdoor entertainment.

Under the applicant's proposal, this project would provide much-needed housing above activated ground-floor restaurant space – exactly the type of walkable, transit-supportive growth that is needed in our Imagine Austin Downtown Center. And, importantly, it would do so by participating in the Downtown Density Bonus Program, which requires a substantial payment to an affordable housing community benefit and allows for payments for other community benefits.

Austin's downtown is an appropriate place for directing growth to help meet our housing goals, especially when that growth is sought through a density bonus program. The proposed project will provide housing within easy walking distance of parks, jobs, services, shops, restaurants, and other amenities, and will help the City further its affordability goals. Consequently, OANA supports the Planning Commission's DMU-120 recommendation and does not support city staff's recommended height restriction.

If this zoning change request is approved and the applicant applies for participation in the Downtown Density Bonus Program, OANA will be advocating for community benefit contributions in addition to the project's expected affordable housing contribution. One such community benefit, logical due to the project's location on W. 12<sup>th</sup> Street would support of the downtown '[urban greenbelt' project](#) that is envisioned to connect many of Austin's downtown parks spaces. This key public amenity is already supported by the Downtown Austin Alliance, Shoal Creek Conservancy, Waterloo Greenway, The Trail Foundation, Pease Park Conservancy, Friends of Wooldridge Square, and Austin Parks Foundation.

In summary, with these conditions, OANA supports the applicant's request for DMU at 416 W. 12th Street and urges you to support this zoning change.

Sincerely,

Ted Siff, President

**Board of Directors**

**Ted Siff, President**

**Michael Portman**

**Perry Lorenz**

**Charles Peveto**

**Blake Tollett, Secretary**

**Austin Stowell**

**Chris Riley**

**Ray Canfield, Treasurer**

**Katie Jackson**

**Diana Zuniga**

NIEMANN & HEYER, L.L.P.  
ATTORNEYS AT LAW  
WESTGATE BUILDING, SUITE 313  
1122 COLORADO STREET  
AUSTIN, TEXAS 78701-2101

CONNIE NIEMANN HEYER

TELEPHONE (512) 474-6901  
FAX (512) 474-0717  
CONNIEHEYER@NIEMANNLAW.COM

March 25, 2021

To the Honorable Members of the  
City Council of the City of Austin

Re: Penthouse Condominium Association opposition to proposed 12<sup>th</sup>  
Street and San Antonio development

Dear Honorable Council Members,

I represent the Penthouse Condominium Owners' Association, Inc. Please accept this letter as notification of the association's opposition to the proposed 12<sup>th</sup> Street development.

The Penthouse Condominiums consists of 80 condominium units with well over 100 residents, located at the corner of 13<sup>th</sup> and Guadalupe.

The association members do not want their quality of life negatively impacted by a 400-foot 60 story building. The added number of car trips in this already heavily-congested area would greatly restrict and in many cases inevitably prevent association members and guests from accessing the building and parking areas. The traffic capacity has already been significantly reduced by the recently-installed dedicated bus lanes added around the perimeter of the Penthouse Condominiums. The infrastructure in this area simply does not support this level of density. Thank you.

Sincerely,  
NIEMANN & HEYER, L.L.P.

By   
\_\_\_\_\_  
Connie N. Heyer

**From:** [Rick Hardin](#)  
**To:** [Graham, Mark](#)  
**Cc:** [Michael Whellan \(mwhellan@abaustin.com\)](mailto:mwhellan@abaustin.com)  
**Subject:** C14-2020-0112 - 416 W. 12th Street - Letter of Support  
**Date:** Saturday, March 27, 2021 9:56:18 AM  
**Attachments:** [Letter of Support - 416 W 12th - C14-2020-0112.pdf](#)

---

\*\*\* External Email - Exercise Caution \*\*\*

## LETTER OF SUPPORT

-  
Date: March 27, 2021

File Number: C14-2020-0112

Address of Rezoning Request: 416 W. 12<sup>th</sup> Street

TO: Austin City Council

I, the undersigned owner of property in the area of the requested zoning change described in the referenced file, do hereby support change of the Land Development Code (LDC) which would re-zone the property to DMU (Downtown Mixed Use) without lower height restrictions.

I do ***not*** support Conditional Overlay restricting developmental height to 60 feet.

**This property is situated within the Core Waterfront District (*not the NW District*), and is eligible for a FAR of 15:1. Residential density is beneficial and much needed in this urban walkable neighborhood.**

***Nearby buildings which are in excess of 60 feet include:***

- 509 W 11<sup>th</sup> St. - Blackwell-Thurman Criminal Justice Center – (20 floors)
- 1400 Lavaca St. – SXSW Center – (12 floors)
- 1210 San Antonio St. – Texas Association of Counties - (8 floors)
- 1303 San Antonio St. – St. David’s Foundation - (8 floors)
- 1303 San Antonio St. – Offices - (9 floors)
- 1122 Colorado St. - Westgate Tower - (24 floors)
- 1212 Guadalupe St. – (10 floors)
- 411 W. 13<sup>th</sup> St. – Travis County Executive Offices - (10 floors)
- 303 W 15th St. – DoubleTree Suites - (16 floors)
- 401 W 15th St. – Texas Medical Association – (11 floors)
- 516 W 8th St. – Wyndham Hotel – (22 floors)

I have ownership in the following properties, which are located near the applicant’s 416 W. 12<sup>th</sup> property:

- 800 San Antonio Street – The Historic J. W. McLaughlin House
- 502 West 15<sup>th</sup> Street
- 616 Nueces Street

Richard G. Hardin  
O. (512) 322-9292  
[rick@hardininterests.com](mailto:rick@hardininterests.com)

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## PUBLIC HEARING INFORMATION

This zoning/rezoning request will be reviewed and acted upon at two public hearings: before the Land Use Commission and the City Council. Although applicants and/or their agent(s) are expected to attend a public hearing, you are not required to attend. However, if you do attend, you have the opportunity to speak FOR or AGAINST the proposed development or change. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

During its public hearing, the board or commission may postpone or continue an application's hearing to a later date, or may evaluate the City staff's recommendation and public input forwarding its own recommendation to the City Council. If the board or commission announces a specific date and time for a postponement or continuation that is not later than 60 days from the announcement, no further notice is required.

During its public hearing, the City Council may grant or deny a zoning request, or rezone the land to a less intensive zoning than requested but in no case will it grant a more intensive zoning.

However, in order to allow for mixed use development, the Council may add the MIXED USE (MU) COMBINING DISTRICT to certain commercial districts. The MU Combining District simply allows residential uses in addition to those uses already allowed in the seven commercial zoning districts. As a result, the MU Combining District allows the combination of office, retail, commercial, and residential uses within a single development.

For additional information on the City of Austin's land development process, visit our website:  
[www.austintexas.gov/planning](http://www.austintexas.gov/planning).

Written comments must be submitted to the board or commission (or the contact person listed on the notice) before the public hearing. Your comments should include the board or commission's name, the scheduled date of the public hearing, and the Case Number and the contact person listed on the notice.

**Case Number: C14-2020-0112**

**Contact: Mark Graham, 512-974-3574**

**Public Hearing: March 4, 2021, City Council**

David Woollett

Your Name (please print)

501 W 12th St. ATX 78701

Your address(es) affected by this application

David Woollett

Signature

<input checked="checked" type="checkbox"/> I am in favor
<input type="checkbox"/> I object

2.22.2011

Date

Daytime Telephone: \_\_\_\_\_

Comments: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

If you use this form to comment, it may be returned to:

City of Austin, Housing and Planning Department

**Mark Graham**

P. O. Box 1088, Austin, TX 78767

Or email to:

[mark.graham@austintexas.gov](mailto:mark.graham@austintexas.gov)

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**Case Number: C14-2020-0112**

**Contact: Mark Graham, 512-974-3574**

**Public Hearing: March 4, 2021, City Council**

*Mark Ashby*

Your Name (please print)

*1212 Guadalupe*

Your address(es) affected by this application

*#704 Austin*

*78701*

Signature

☐ I am in favor  
☒ I object

*2/20/21*

Daytime Telephone:

*512.589.3310*

Comments:

*Please don't destroy  
a beautiful mid century  
building.*

If you use this form to comment, it may be returned to:

City of Austin, Housing and Planning Department

**Mark Graham**

P. O. Box 1088, Austin, TX 78767

Or email to:

[mark.graham@austintexas.gov](mailto:mark.graham@austintexas.gov)

# EDUCATIONAL IMPACT STATEMENT

Prepared for the City of Austin

Austin  
Independent  
School District



PROJECT NAME: 416 W. 12<sup>th</sup> St.

ADDRESS/LOCATION: 416 W. 12<sup>th</sup> St.

CASE #: C14-2020-0112

☐ NEW SINGLE FAMILY

☐ DEMOLITION OF MULTIFAMILY

☒ NEW MULTIFAMILY

☐ TAX CREDIT

# SF UNITS: \_\_\_\_\_ STUDENTS PER UNIT ASSUMPTION  
Elementary School: \_\_\_\_\_ Middle School: \_\_\_\_\_ High School: \_\_\_\_\_

# MF UNITS: 280 STUDENTS PER UNIT ASSUMPTION  
Elementary School: .008 Middle School: .003 High School: .005

## IMPACT ON SCHOOLS

The student yield factor of 0.016 (across all grade levels) for apartment homes was used to determine the number of projected students. This factor was provided by the district's demographer and is based on other market rate multifamily complexes built within the area since 2015.

The proposed 280-unit multifamily development is projected to add approximately 5 students across all grade levels to the projected student population. It is estimated that of the 5 students, 2 will be assigned to Mathews Elementary School, 1 to O. Henry Middle School, and 2 to Austin High School.

The percent of permanent capacity by enrollment for School Year 2025/26, including the additional students projected with this development, would be within the optimal utilization target range of 85-110% at Mathews ES (96%) and Austin HS (101%), and below the target range at O. Henry MS (67%). The projected additional students at O. Henry would not offset the anticipated decline in student enrollment. All of these schools will be able to accommodate the projected additional student population from the proposed development.

## TRANSPORTATION IMPACT

Students within the proposed development attending O. Henry MS will qualify for transportation. Students attending Mathews ES or Austin HS will not qualify for transportation unless a hazardous route condition is identified.

## SAFETY IMPACT

There are not any identified safety impacts at this time.

Date Prepared: 3/29/2021

Director:

DocuSigned by:

*Melissa Laursen*

89E0D678DCBE436...

# EDUCATIONAL IMPACT STATEMENT

Prepared for the City of Austin

Austin  
Independent  
School District



## DATA ANALYSIS WORKSHEET

### ELEMENTARY SCHOOL: Mathews

ADDRESS: 906 West Lynn St.

PERMANENT CAPACITY: 397

MOBILITY RATE: +68.6%

#### POPULATION (without mobility rate)

ELEMENTARY SCHOOL STUDENTS	2020-21 Population	5- Year Projected Population (without proposed development)	5-Year Projected Population (with proposed development)
Number	207	238	240
% of Permanent Capacity	52%	60%	60%

#### ENROLLMENT (with mobility rate)

ELEMENTARY SCHOOL STUDENTS	2020-21 Enrollment	5- Year Projected Enrollment (without proposed development)	5-Year Projected Enrollment (with proposed development)
Number	349	380	382
% of Permanent Capacity	88%	96%	96%

### MIDDLE SCHOOL: O. Henry

ADDRESS: 2610 West 10<sup>th</sup> St.

PERMANENT CAPACITY: 945

MOBILITY RATE: -1.5%

#### POPULATION (without mobility rate)

MIDDLE SCHOOL STUDENTS	2020-21 Population	5- Year Projected Population (without proposed development)	5-Year Projected Population (with proposed development)
Number	939	657	658
% of Permanent Capacity	99%	70%	70%

#### ENROLLMENT (with mobility rate)

MIDDLE SCHOOL STUDENTS	2020-21 Enrollment	5- Year Projected Enrollment (without proposed development)	5-Year Projected Enrollment (with proposed development)
Number	925	636	637
% of Permanent Capacity	98%	67%	67%

# EDUCATIONAL IMPACT STATEMENT

Prepared for the City of Austin

Austin  
Independent  
School District



## HIGH SCHOOL: Austin

ADDRESS: 1715 W. Cesar Chavez St.

PERMANENT CAPACITY: 2,247

MOBILITY RATE: +11.5%

### POPULATION (without mobility rate)

HIGH SCHOOL STUDENTS	2020-21 Population	5- Year Projected Population (without proposed development)	5-Year Projected Population (with proposed development)
Number	2,110	2,037	2,039
% of Permanent Capacity	94%	91%	91%

### ENROLLMENT (with mobility rate)

HIGH SCHOOL STUDENTS	2020-21 Enrollment	5- Year Projected Enrollment (without proposed development)	5-Year Projected Enrollment (with proposed development)
Number	2,353	2,269	2,271
% of Permanent Capacity	105%	101%	101%

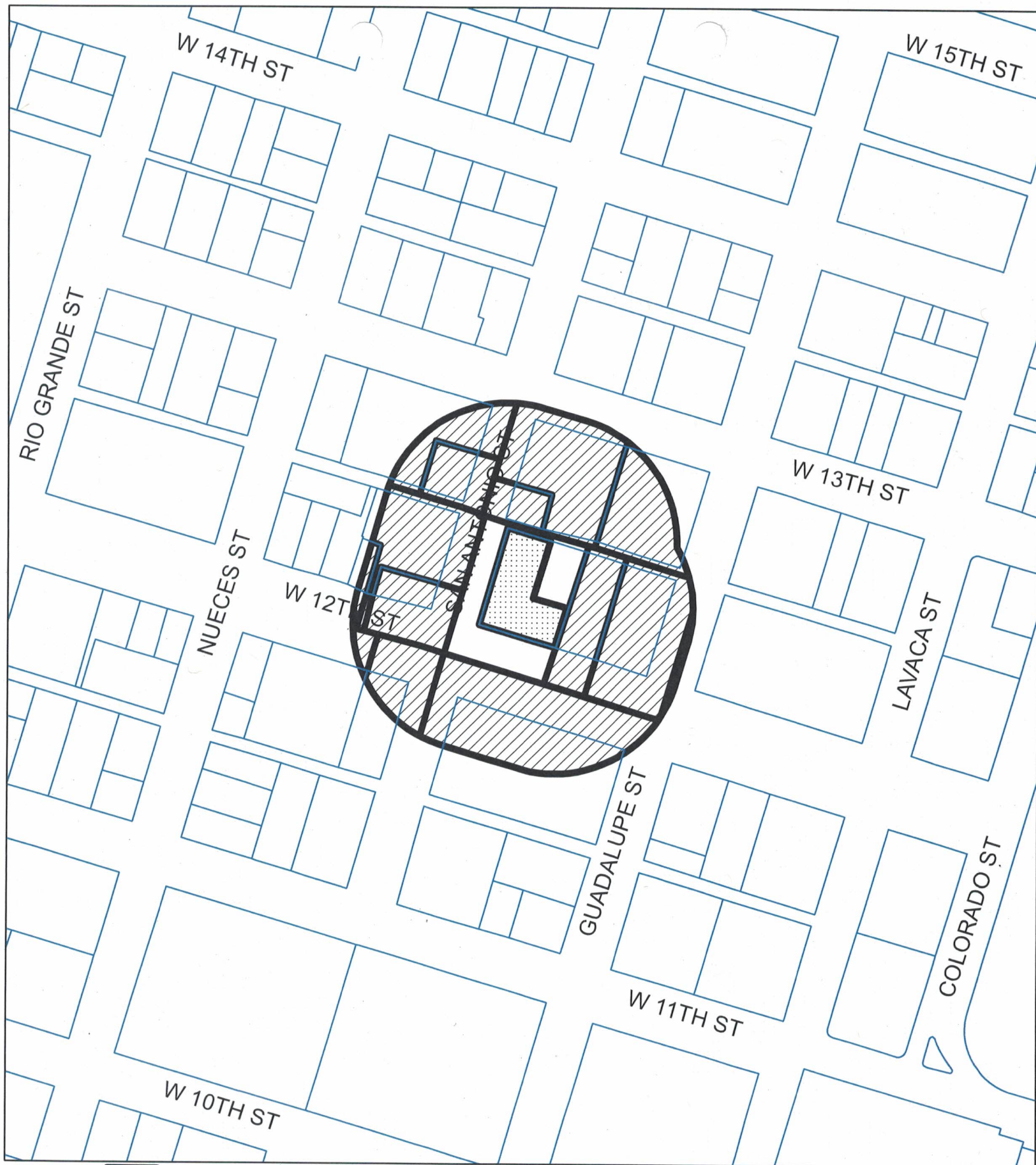
Case Number:  
**C14-2020-0112**

## PETITION

Date: 4/12/2021  
Total Square Footage of Buffer: 234898.1443  
Percentage of Square Footage Owned by Petitioners Within Buffer: 26.79%

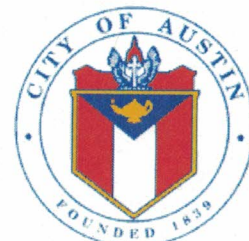
Calculation: The total square footage is calculated by taking the sum of the area of all TCAD Parcels with valid signatures including one-half of the adjacent right-of-way that fall within 200 feet of the subject tract. Parcels that do not fall within the 200 foot buffer are not used for calculation. When a parcel intersects the edge of the buffer, only the portion of the parcel that falls within the buffer is used. The area of the buffer does not include the subject tract.




TCAD ID	Address	Owner	Signature	Petition Area	Percent
0208011008	402 W 12 ST 78701	ALLISON BASS & ASSOCIATES LLP	no	15193.95	0.00%
0208010902	1110 GUADALUPE ST 78701	CENTRAL CHRISTIAN CHURCH OF AU	no	42297.54	0.00%
0208011013	1212 GUADALUPE ST 78701	MULTIPLE OWNERS	yes	16996.97	7.24%
0208010510	1200 SAN ANTONIO ST AUSTIN 78701	OROSOLUTIONS LLC	no	14095.80	0.00%
0208011001	1205 SAN ANTONIO ST AUSTIN 78701	POPPER CHARLES D	yes	6073.85	2.59%
0208010508	1204 SAN ANTONIO ST 78701	TEXAS ASSOCIATION OF COUNTIES	no	21057.79	0.00%
0208010506	1210 SAN ANTONIO ST	TEXAS ASSOCIATION OF COUNTIES	no	11505.45	0.00%
0208010507	1206 SAN ANTONIO ST 78701	TEXAS ASSOCIATION OF COUNTIES	yes	9588.55	4.08%
0208010414	505 W 12 ST 78701	TEXAS DISTRICT & COUNTY	no	1742.88	0.00%
0208011012	411 W 13 ST 78701	TRAVIS COUNTY TRUSTEE	no	29067.45	0.00%
0208011007	1200 GUADALUPE ST 78701	WHITE SWAN INVESTMENTS LLC	yes	28382.25	12.08%
0208010412	501 W 12 ST 78701	WOOLLETT FAMILY LIMITED PARTNERSHIP NO 1	no	12240.77	0.00%
0208010511	502 W 12 ST 78701	WRIGHT ROBERT STANLEY	yes	1881.98	0.80%
<b>Total</b>				<b>210125.24</b>	<b>26.79%</b>



## PETITION

Case#: C14-2020-0112



-  BUFFER
-  PROPERTY\_OWNER
-  SUBJECT\_TRACT

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1" = 200'

PETITION

Date: 6 March 2021

File Number: C14-2020-0112

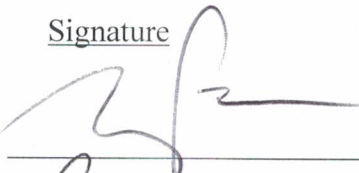
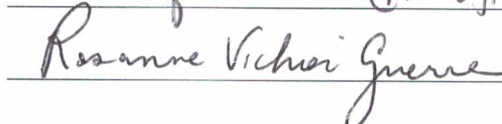
Address of Rezoning Request: 416 W. 12<sup>th</sup> Street

TO: Austin City Council

We, the undersigned owners of property affected by the requested zoning change described in the referenced file, do hereby protest against any change of the Land Development Code (LDC) which would zone the property to any classification other than DMU-CO (Downtown Mixed Use-Conditional Overlay), the Conditional Overlay at a minimum encompassing the entitlement restriction of 60 feet of developmental height.

The requested zoning district of DMU without the developmental height restriction of 60 feet goes against the City Staff's recommendation and the Downtown Austin Plan.

PLEASE USE BLACK INK WHEN SIGNING THE PETITION

<u>Signature</u>	<u>Printed Name</u>	<u>Address</u>
	Charles Popper (Law Office of Charles Popper)	1205 SAN ANTONIO ST AUSTIN, TX 78701
	Rosanne Vichier-Guerre Woollett Partnership	501 W. 12th St Austin, TX 78701

Date: March 15, 2015 Contact: Blake Tollett  
512-541-5913  
3701 Bonnie Road  
Austin, Texas 78703

PETITION

Date: 16 March 2021

File Number: C14-2020-0112

Address of Rezoning Request: 416 W. 12<sup>th</sup> Street

TO: Austin City Council

We, the undersigned owners of property affected by the requested zoning change described in the referenced file, do hereby protest against any change of the Land Development Code (LDC) which would zone the property to any classification other than DMU-CO (Downtown Mixed Use-Conditional Overlay), the Conditional Overlay at a minimum encompassing the entitlement restriction of 60 feet of developmental height.

The requested zoning district of DMU without the developmental height restriction of 60 feet goes against the City Staff's recommendation and the Downtown Austin Plan.

PLEASE USE BLACK INK WHEN SIGNING THE PETITION

Signature

Printed Name

Address

Robert S. Wright, D.C., ROBERT S. WRIGHT, D.C., 502 W. 12TH  
AUSTIN, TEXAS, 78701

AB Zallat J. Blake Tollett 601-603 W 12th  
78701

Date: 3/16/2021

Contact: Blake Tollett  
512-541-5913  
3701 Bonnie Road  
Austin, Texas 78703

PETITION

Date: March 2021

File Number: C14-2020-0112

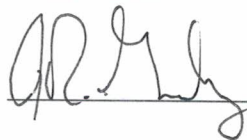
Address of Rezoning Request: 416 W. 12<sup>th</sup> Street

TO: Austin City Council

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The requested zoning district of DMU without the developmental height restriction of 60 feet goes against the City Staff's recommendation and the Downtown Austin Plan.

PLEASE USE BLACK INK WHEN SIGNING THE PETITION

<u>Signature</u>	<u>Printed Name</u>	<u>Address</u>
	Robert Gonzalez Penthouse HOA President	1212 Guadalupe St #501 Austin, TX 78701

Date:

Contact: Blake Tollett  
512-541-5913  
3701 Bonnie Road  
Austin, Texas 78703

**Resolution of the Board of Directors of  
PENTHOUSE CONDOMINIUM OWNERS' ASSOCIATION**  
*Regarding opposing 12<sup>th</sup> and San Antonio development*

**By signing below the undersigned, as President of the Penthouse Condominium Owners' Association (Association), certifies that the following resolution was approved by all members of the Board of Directors. The board members are:**

**Carson Berry  
Stephen Maher  
Kip Kronenberg  
Robert Gonzalez**

It is resolved that the Association objects to the development proposed to be located at the corner of 12<sup>th</sup> Street and San Antonio in Austin, Texas. The Association authorizes its President Robert Gonzales, to act on behalf of the Association in all matters concerning this proposed development, including communication with governmental agents, signing petitions in opposition, or any such action, and hereby ratifies any such past actions so taken by Robert Gonzalez. The Association additionally authorizes its attorney, Niemann & Heyer LLP (any agent acting on behalf of such law office) to act on behalf of the Association in all matters concerning this proposed development, including communication with governmental agents, signing petitions in opposition, and other such acts, and hereby ratifies any past acts so taken by its counsel.

**PENTHOUSE CONDOMINIUM OWNERS' ASSOCIATION**

Acting by and through its Board of Directors

Signature: \_\_\_\_\_

Printed Name: Robert Gonzalez

Title: President

PETITION

Date: March 2021

File Number: C14-2020-0112

Address of Rezoning Request: 416 W. 12<sup>th</sup> Street

TO: Austin City Council

We, the undersigned owners of property affected by the requested zoning change described in the referenced file, do hereby protest against any change of the Land Development Code (LDC) which would zone the property to any classification other than DMU-CO (Downtown Mixed Use-Conditional Overlay), the Conditional Overlay at a minimum encompassing the entitlement restriction of 60 feet of developmental height.

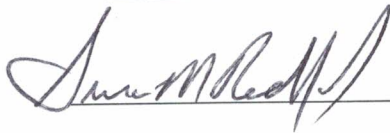
The requested zoning district of DMU without the developmental height restriction of 60 feet goes against the City Staff's recommendation and the Downtown Austin Plan.

PLEASE USE BLACK INK WHEN SIGNING THE PETITION

Signature

Printed Name

Address



Susan M. Redford

1206 San Antonio St.  
Austin TX 78701

Date: 4-5-2021

Contact: Blake Tollett  
512-541-5913  
3701 Bonnie Road  
Austin, Texas 78703

I, Hon. Jackie Miller, Jr. {name}, the undersigned **Secretary** of the Texas Association of Counties Risk Management Pool "TACRMP", hereby certify that:

TACRMP is a risk pool duly organized and existing under the laws of the State of Texas. The following is a true and accurate transcript of a Resolution adopted at the November 13, 2020 Board meeting. TACRMP's Board of Directors adopted the Resolution, which is contained in TACRMP's minute book, at a duly authorized board meeting. A quorum of TACRMP's Board of Directors was present at the entire board meeting and all actions taken at the meeting complied with TACRMP's bylaws and administration agreement between TACRMP and the Texas Association of Counties. This Resolution has not been amended or revoked on the date signed below, and remains in full force and effect.

**Resolved**, that Susan Redford, Executive Director of the Texas Association of Counties, be and hereby is empowered to sign any and all documents, to take such steps, and to do such other acts and things, on behalf of TACRMP, as in her judgment may be necessary, appropriate or desirable in connection with any License Agreement entered into with the City of Austin affecting the real property described as:

Lots 3 and 4, Block 151 Original City of Austin

A subdivision of Travis County, Texas, according to the map or plat of record in Volume 9236, Page 559, of the Plat Records of Travis County, Texas, "Property".

**Resolved**, that all transactions with the City of Austin involving a License Agreement affecting the Property by any of the officers or representatives of TACRMP, in its name and for its account, prior to the adoption of these resolutions, are hereby ratified and approved for all purposes.

Signed and sealed on 12/01/2020 | 12:14 PM CST, 2020.

{Seal}

DocuSigned by:

Hon. Jackie Miller, Jr.

A4FB6CA7A557423

Secretary

STATE OF TEXAS §  
COUNTY OF TRAVIS §

Jamie Chandler

Before me, Jamie Chandler (name) the undersigned Notary Public of the State of Texas, on this day personally appeared Jackie Miller, Jr., [choose one] known to me or proved to me through (TDL#), to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that s/he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this 1st day of December, A.D. 2020.

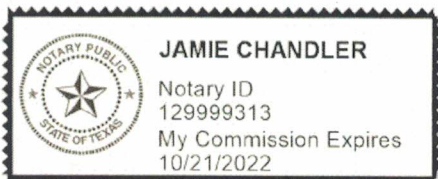
[SEAL]

DocuSigned by:

Jamie Chandler

09E92F6637B2730

Notary Public, State of Texas



PETITION

Date: March 23<sup>rd</sup>, 2021

File Number: C14-2020-0112

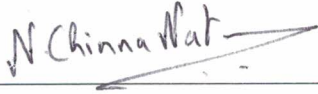
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The requested zoning district of DMU without the developmental height restriction of 60 feet goes against the City Staff's recommendation and the Downtown Austin Plan.

PLEASE USE BLACK INK WHEN SIGNING THE PETITION

<u>Signature</u>	<u>Printed Name</u>	<u>Property Address</u>
	Chinna N. Natesan	1200 Guadalupe St
	Manager of the Company	Austin, TX 78701
	Authorized Signatory	Property ID: 196766
	White Swan Investments LLC	

Date: March 23<sup>rd</sup>, 2021

Contact: Blake Tollett  
512-541-5913  
3701 Bonnie Road  
Austin, Texas 78703

**White Swan Investments, LLC**  
**Operating Agreement (Regulations)**

A. This Operating Agreement of White Swan Investments, LLC (the "Company") is entered into as of the date set forth on the signature page hereto by each of the persons named in Exhibit A hereto (referred to individually as a Member and collectively as the Members).

B. The Members have formed a limited liability company under the Texas Business Organizations Code. The Certificate of Formation of the Company filed with the Texas Secretary of State are hereby adopted and approved by the Members.

C. The Members enter into this agreement to provide for the governance of the Company and the conduct of its business, and to specify their relative rights and obligations.

NOW THEREFORE, the Members agree as follows:

**ARTICLE 1: DEFINITIONS**

Capitalized terms used in this agreement have the meanings specified in this Article or elsewhere in this agreement and when not so defined shall have the meanings set forth in the Texas Business Organizations Code.

"Capital Contribution" means the amount of cash, property or services contributed to the Company.

"Company" means White Swan Investments, LLC, a Texas limited liability company.

"Member" means a Person who acquires Membership Interests, as permitted under this agreement, and who becomes or remains a Member.

"Membership Interests" means either Percentage Interest or Units, based on how ownership in the Company is expressed on Exhibit A. "Unit" means a unit of ownership in the Company entitling the Member holding such Unit to an economic interest and a voting interest in the Company.

"Percentage Interest" means a percent ownership in the Company entitling the holder to an economic and voting interest in the Company.

"Person" means an individual, partnership, limited partnership, trust including Defined Benefit Pension Plan and Trust, estate, association, corporation, limited liability company, or

other entity, whether domestic or foreign.

## ARTICLE 2: CAPITAL AND CAPITAL CONTRIBUTIONS

**2.1 Initial Capital Contributions and Membership Interests.** The Capital Contributions of the Initial Members, as well as the Membership Interests of each Member, are listed in Exhibit A, which is made part of this agreement. Membership Interests in the Company may be expressed either in Units or directly in Percentage Interests.

**2.2 Subsequent Contributions.** No Member shall be obligated to make additional capital contributions unless unanimously agreed by all the Members.

**2.3 Capital Accounts.** Individual capital accounts may be maintained for each Member consisting of that Member's Capital Contribution, (1) increased by that Member's share of profits, (2) decreased by that Member's share of losses and company expenses, (3) decreased by that Member's distributions and (4) adjusted as required in accordance with applicable tax laws.

**2.4 Interest.** No interest shall be paid on Capital Contributions or on the balance of a Member's capital account.

**2.5 Limited Liability.** A Member shall not be bound by, or be personally liable for, the expenses, liabilities, or obligations of the company except as otherwise provided in this agreement or as required by law.

## ARTICLE 3: ALLOCATIONS AND DISTRIBUTIONS

**3.1 Allocations.** The profits and losses of the Company and all items of Company income, gain, loss, deduction, or credit shall be allocated, for Company book purposes and for tax purposes, pro rata in proportion to relative Membership Interests held by each Member.

**3.2 Distributions.** The Company shall have the right to make distributions of cash and property to the Members pro rata based on the relative Membership Interests. The timing and amount of distributions shall be determined by the Managers in accordance with Texas law.

## ARTICLE 4: MANAGEMENT

**4.1 Management.** The business of the Company shall be managed by one or more Managers. The Members initially nominate and elect the person(s) set forth in Exhibit B to serve as Manager(s) of the Company. Managers shall serve at the pleasure of the Members and may be elected or removed by Members holding a majority of the Membership Interests. The number

of Managers may be changed from time to time by Members holding a majority of the Membership Interests. Exhibit B shall be amended from time to time to reflect any changes in Managers. In the event of a dispute between Managers, final determination shall be made by a vote of the majority of the Managers. Any Manager may bind the Company in all matters in the ordinary course of business.

4.2 **Meetings of Managers.** Regular meetings of the Managers are not required but may be held at such time and place as the Managers deem necessary or desirable for the reasonable management of the Company. Meetings may take place in person, by conference telephone or by any other means permitted under Texas law. In addition, actions may be taken without a meeting if the Managers sign a written consent reflecting the action taken.

4.3 **Banking.** The Managers are authorized to set up one or more bank accounts and are authorized to execute any banking resolutions provided by the institution where the accounts are being set up. All funds of the Company shall be deposited in one or more accounts with one or more recognized financial institutions in the name of the Company.

## ARTICLE 5: ACCOUNTS AND ACCOUNTING

5.1 **Accounts.** Complete books of account of the Company's business, in which each Company transaction shall be fully and accurately entered, shall be kept at the Company's principal executive office and shall be open to inspection and copying on reasonable notice by any Member, Manager or their authorized representatives during normal business hours for purposes reasonably related to the interest of such person as a Member or Manager. The costs of such inspection and copying shall be borne by the Member or Manager.

5.2 **Records.** At all times during the term of existence of the Company, and beyond that term if the Managers deems it necessary, the Managers shall keep or cause to be kept the following:

- (a) A current list of the full name and last known business or residence address of each Member and Manager, together with the date each Member became a Member, his or her Capital Contribution, the amount and terms of any future Capital Contribution agreed upon by such Member, and the Membership Interest of each Member;
- (b) A copy of the articles of organization and any amendments;
- (c) Copies of the Company's federal, state, and local income tax or information returns and reports, if any, for the six most recent taxable years; and
- (d) An original executed copy or counterparts of this agreement and any amendments.

5.3 **Income Tax Returns.** Within 45 days after the end of each taxable year, the Company shall use its best efforts to send to each of the Members all information necessary for the Members to complete their federal and state income tax or information returns and a copy of the Company's federal, state, and local income tax or information returns for such year.

5.4 **Tax Matters Member.** Chinna N. Natesan shall act as tax matters member of the Company to represent the Company (at the Company's expense) in connection with all examinations of the Company's affairs by tax authorities and to expend Company funds for professional services and costs associated therewith.

#### ARTICLE 6: MEMBERSHIP--MEETINGS, VOTING

6.1 **Members and Voting Rights.** Members shall have the right and power to vote on all matters with respect to which this agreement or Texas law requires or permits such Member action. Voting shall be based on Membership Interests. Unless otherwise stated in this Agreement, the Articles of Organization or under the Texas Limited Liability Act (where a greater voting requirement may be needed), the vote of the Members holding a majority of the Membership Interests at a meeting of Members at which a quorum is present shall be required to approve or carry an action. A quorum shall consist of Members holding a majority of the Membership Interests.

6.2 **Meetings.** Regular or annual meetings of the Members are not required but may be held at such time and place as the Members deem necessary or desirable for the reasonable management of the Company. Notice shall be given not less than 10 days nor more than 60 days before the date of any meeting to each Member entitled to vote at the meeting. A Member may waive notice of a meeting in writing, orally, or by attendance.

In any instance in which the approval of the Members is required under this agreement, such approval may be obtained in any manner permitted by Texas law, including by conference telephone or similar communications equipment. In addition, any action which could be taken at a meeting can be approved without a meeting and without notice if a consent in writing, stating the action to be taken, is signed by the holders of the minimum Membership Interest needed to approve the action.

6.3 **Greater Voting Requirement.** The affirmative vote, approval, or consent of greater than 51.0% of the Membership Interests is required to:

- (a) change the status of the Company from one in which management is reserved to the Members to one in which management is vested in one or more Managers, or vice versa;
- (b) issue any additional Membership Interests in the limited liability company subsequent to the issuance of Membership Interests to the initial Members of the Company;

(c) approve any merger, consolidation, share or interest exchange, or other transaction authorized by or subject to the provisions of Chapter Ten of the Texas Business Organizations Code;

(d) voluntarily cause the dissolution of the Company;

(e) authorize any transaction, agreement, or action on behalf of the Company that is unrelated to its purpose as set forth in this agreement or articles of organization or that otherwise contravenes this agreement; or

(f) authorize any act that would make it impossible to carry on the ordinary business of the Company.

#### ARTICLE 7: WITHDRAWAL AND TRANSFERS OF MEMBERSHIP INTERESTS

7.1 **Withdrawal.** A Member may withdraw from the Company prior to the dissolution and winding up of the Company with the unanimous consent of the other Members, or if such Member transfers or assigns all of his or her Membership Interests pursuant to Section 7.2 below. A Member which withdraws pursuant to this Section 7.1 shall be entitled to a distribution in an amount equal to such Member's Capital Account.

7.2 **Restrictions on Transfer.** A Member shall not transfer any Membership Interests, whether now owned or later acquired, unless all of the Members consent to such transfer. A person which acquires Membership Interests in accordance with this section shall be admitted as a Member of the Company after the person has agreed to be bound by the terms of this Operating Agreement by executing a consent in the form of Exhibit C, or unless such transfer is to an entity that is 100% solely affiliated or controlled by the Member or the immediate family of the Member.

#### ARTICLE 8: DISSOLUTION AND WINDING UP

8.1 **Dissolution.** The Company shall be dissolved upon the first to occur of the following events:

(a) The vote of Members holding a majority of the outstanding Membership Interests to dissolve the Company.

(b) Entry of a decree of judicial dissolution or termination under Chapter 11 of the Texas Business Organizations Code.

(c) At any time there are no Members, provided that the Company is not dissolved and is not required to be wound up if, within 90 days after the occurrence of the

event that terminated the continued membership of the last remaining Member, the legal representative of the last remaining Member agrees in writing to continue the Company and to the admission of the legal representative of such Member or its assignee to the Company as a Member, effective as of the occurrence of the event that terminated the continued membership of the last remaining Member.

8.2 **No automatic dissolution upon certain events.** Neither the death, incapacity, disassociation, bankruptcy or withdrawal of a Member shall automatically cause a dissolution of the Company.

## ARTICLE 9: INDEMNIFICATION

9.1 **Indemnification.** The Company shall have the power to indemnify any Person who was or is a party, or who is threatened to be made a party, to any proceeding by reason of the fact that such Person was or is a Member, Manager, officer, employee, or other agent of the Company, or was or is serving at the request of the Company as a director, manager, officer, employee, or other agent of another limited liability company, corporation, partnership, joint venture, trust, or other enterprise, against expenses, judgments, fines, settlements, and other amounts actually and reasonably incurred by such Person in connection with such proceeding, if such Person acted in good faith and in a manner that such Person reasonably believed to be in the best interests of the Company, and, in the case of a criminal proceeding, such Person had no reasonable cause to believe that the Person's conduct was unlawful. The termination of any proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the Person did not act in good faith and in a manner that such Person reasonably believed to be in the best interests of the Company, or that the Person had reasonable cause to believe that the Person's conduct was unlawful.

To the extent that an agent of the Company has been successful on the merits in defense of any proceeding, or in defense of any claim, issue, or matter in any such proceeding, the agent shall be indemnified against expenses actually and reasonably incurred in connection with the proceeding. In all other cases, indemnification shall be provided by the Company only if authorized in the specific case unanimously by all of the Members.

"Proceeding," as used in this section, means any threatened, pending, or completed action or proceeding, whether civil, criminal, administrative, or investigative.

9.2 **Expenses.** Expenses of each Person indemnified under this agreement actually and reasonably incurred in connection with the defense or settlement of a proceeding may be paid by the Company in advance of the final disposition of such proceeding, as authorized by the Members or Managers, as the case may be, who are not seeking indemnification upon receipt of an undertaking by such Person to repay such amount unless it shall ultimately be determined that such Person is entitled to be indemnified by the Company.

"Expenses," as used in this section, includes, without limitation, attorney fees and expenses of establishing a right to indemnification, if any, under this section.

#### ARTICLE 10: GENERAL PROVISIONS

**10.1 Entire Agreement; Amendment.** This agreement constitutes the whole and entire agreement of the parties with respect to the subject matter of this agreement, and it shall not be modified or amended in any respect except by a written instrument executed by all of the Members. This agreement replaces and supersedes all prior written and oral agreements by and among the Members. This Agreement may be executed by facsimile, and signature pages may be compiled to create multiple identical counterparts, whether or not all original signatures would otherwise appear on each counterpart, and each counterpart shall be deemed an original for all purposes.

**10.2 Governing Law; Severability.** This agreement shall be construed and enforced in accordance with the internal laws of the State of Texas. If any provision of this agreement is determined by any court of competent jurisdiction or arbitrator to be invalid, illegal, or unenforceable to any extent, that provision shall, if possible, be construed as though more narrowly drawn, if a narrower construction would avoid such invalidity, illegality, or unenforceability or, if that is not possible, such provision shall, to the extent of such invalidity, illegality, or unenforceability, be severed, and the remaining provisions of this agreement shall remain in effect.

**10.3 Benefit.** This agreement shall be binding on and inure to the benefit of the parties and their heirs, personal representatives, and permitted successors and assigns.

**10.4 Number and Gender.** Whenever used in this agreement, the singular shall include the plural and the plural shall include the singular, and the neuter gender shall include the male and female as well as a trust, firm, company, or corporation, all as the context and meaning of this agreement may require.

**10.5 No Third Party Beneficiary.** This agreement is made solely for the benefit of the parties to this agreement and their respective permitted successors and assigns, and no other person or entity shall have or acquire any right by virtue of this agreement.

IN WITNESS WHEREOF, the parties have executed or caused to be executed this Operating Agreement as of the date below.

Dated: May 3<sup>rd</sup>, 2011

N. Chinna Natesan

CHINNA N. NATESAN

Plan Administrator

Chinna N. Natesan Defined Benefit Pension Plan & Trust

Murugappan Natesan

MURUGAPPAN NATESAN

Plan Administrator

Murugappan Natesan Defined Benefit Pension Plan and Trust

Seethalakshmi Natesan

SEETHALAKSHMI NATESAN

Plan Administrator

Seethalakshmi Natesan Defined Benefit Pension Plan & Trust

Geetha T. Echambadi

GEETHA T. ECHAMBADI

Plan Administrator

Geetha T. Echambadi Defined Benefit Pension Plan & Trust

EXHIBIT B

**MANAGERS**

The following person(s) are elected as Manager(s) of the Company:

CHINNA N. NATESAN

EXHIBIT C

**NEW MEMBER'S CONSENT**

The undersigned agrees to be bound as a Member by the terms of the Operating Agreement of White Swan Investments, LLC as if the undersigned was a signatory thereof.

\_\_\_\_\_  
(Signature)

Name: \_\_\_\_\_

Date: \_\_\_\_\_

Secretary of State  
P.O. Box 13697  
Austin, TX 78711-3697  
FAX: 512/463-5709



**Certificate of Formation  
Limited Liability Company**

Filing Fee: \$300

Filed in the Office of the  
Secretary of State of Texas  
Filing #: 801419557 05/02/2011  
Document #: 366337580002  
Image Generated Electronically  
for Web Filing

**Article 1 - Entity Name and Type**

The filing entity being formed is a limited liability company. The name of the entity is:

**White Swan Investments, LLC**

**Article 2 – Registered Agent and Registered Office**

☐ A. The initial registered agent is an organization (cannot be company named above) by the name of:

**OR**

☒ B. The initial registered agent is an individual resident of the state whose name is set forth below:

**Name:**

**Manimegalai Gandhi**

C. The business address of the registered agent and the registered office address is:

**Street Address:**

**8701 Corran Ferry Drive Austin TX 78749**

**Consent of Registered Agent**

☐ A. A copy of the consent of registered agent is attached.

**OR**

☒ B. The consent of the registered agent is maintained by the entity.

**Article 3 - Governing Authority**

☒ A. The limited liability company is to be managed by managers.

**OR**

☐ B. The limited liability company will not have managers. Management of the company is reserved to the members.

The names and addresses of the governing persons are set forth below:

Manager 1: **Chinna N. Natesan**

Title: **Manager**

Address: **P.O. Box 161984 Austin TX, USA 78716-1984**

**Article 4 - Purpose**

The purpose for which the company is organized is for the transaction of any and all lawful business for which limited liability companies may be organized under the Texas Business Organizations Code.

**Supplemental Provisions / Information**

[The attached addendum, if any, is incorporated herein by reference.]

**Organizer**

The name and address of the organizer are set forth below.

**Chinna N. Natesan** **P.O. Box 161984, Austin, TX 78716-1984**

**Effectiveness of Filing**

☒ A. This document becomes effective when the document is filed by the secretary of state.

**OR**

☐ B. This document becomes effective at a later date, which is not more than ninety (90) days from the date of its signing. The delayed effective date is:

**Execution**

The undersigned affirms that the person designated as registered agent has consented to the appointment. The undersigned signs this document subject to the penalties imposed by law for the submission of a materially false or fraudulent instrument and certifies under penalty of perjury that the undersigned is authorized under the provisions of law governing the entity to execute the filing instrument.

**N. Chinna Natesan**

Signature of Organizer

**FILING OFFICE COPY**